

Order

Michigan Supreme Court
Lansing, Michigan

July 2, 2008

Clifford W. Taylor,
Chief Justice

135861

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

ERNIE MORGAN and KATHY MORGAN,
Plaintiffs-Appellees,

v

SC: 135861
COA: 272837
Allegan CC: 03-034763-NO

MENASHA CORPORATION,
Defendant-Third-Party
Plaintiff-Appellant,

v

FAIRHAVEN WOOD HARVESTING, INC.,
Third-Party Defendant-Third-
Party Plaintiff-Appellee,

v

D & K CHIPS and GWEN KNIGHT a/k/a
GWEN DIGBY,
Third-Party Defendants.

On order of the Court, the application for leave to appeal the November 15, 2007 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE that part of the November 15, 2007 judgment remanding this case to the Allegan Circuit Court “for entry of judgment in favor of [the third-party defendant] Fairhaven [Wood Harvesting, Inc.]” We do not disturb the Court of Appeals ruling concerning third-party plaintiff Menasha Corporation’s argument under Article 9 of the Chip Purchase Agreement. But the third-party complaint further alleged that the third-party defendant breached its obligation under Article 10 of the Chip Purchase Agreement to procure and maintain insurance coverage. Because the circuit court has not yet resolved this aspect of the third-party complaint, we REMAND this case to the circuit court for further proceedings not inconsistent with this order. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



s0625

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 2, 2008

Corbin R. Davis

Clerk